

## **DISCLAIMER**

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## **APPLICATION OF**

**UNITED TELEPHONE-SOUTHEAST, INC.**

**CASE NO. PUC990211**

**For authority to provide  
notice to its Konnarock  
customers of revised  
ELS Proposal**

## **REPORT OF ALEXANDER F. SKIRPAN, JR., HEARING EXAMINER**

**August 30, 2000**

Under Virginia law, telephone customers may petition the Commission to extend their area of local service. This case originated with a petition from customers in the Konnarock exchange seeking to expand local service to include the Sugar Grove, Marion, Chilhowie, and Saltville exchanges. After customer polls eliminated local calling between the Konnarock and Sugar Grove exchanges, local hearings were held to determine customer interest regarding local calling between Konnarock and the Marion, Chilhowie, and Saltville exchanges.

## **HISTORY OF THE CASE**

On May 12, 1998, telephone customers in United Telephone-Southeast, Inc.'s ("United") Konnarock exchange petitioned this Commission for local service to the Sugar Grove, Marion, Chilhowie, and Saltville exchanges. United polled the Konnarock exchange customers and determined that a majority of those customers were willing to pay an increase in monthly rates for local service to those exchanges. United then conducted a cost study to ascertain the cost for each exchange to have local calling with the Konnarock exchange. Because of the magnitude of the increase in costs for the Sugar Grove customers, those customers were polled and it was determined that they were unwilling to pay the indicated increase in monthly rates for local calling to Konnarock. Customers in the remaining exchanges, *i.e.*, Marion, Chilhowie, and Saltville, were provided public notice and given until October 7, 1999, to file comments or request a hearing. One customer from Marion and one customer from Chilhowie filed comments opposing local calling with Konnarock.

On November 12, 1999, United filed an application requesting that notice be provided to Konnarock customers stating that: (i) Sugar Grove customers rejected calling to Konnarock; (ii) the earlier local service proposal will be modified to remove Sugar Grove; and (iii) the revised rates reflect this change. On December 21, 1999, the Commission issued an Order Prescribing Notice in which it also permitted customers to file comments and request a hearing. Based on customer comments and requests for hearing, on March 13, 2000, the Staff filed a report suggesting a public hearing on the matter. On April 4, 2000, the Commission issued its

Procedural Order, assigned this matter to a Hearing Examiner, and directed the scheduling of a local public hearing.

On April 28, 2000, a hearing examiner's ruling scheduled local hearings for 2:00 p.m. and 7:00 p.m. on June 7, 2000, in the Smyth County Circuit Court located in Marion, Virginia. This ruling also directed the Commission's Division of Communications to publish notice of the local hearings in newspapers of general circulation within United's Konnarock, Marion, Chilhowie, and Saltville exchanges.

On June 7, 2000, hearings were held in the Smyth County Circuit Court. Forty-one witnesses appeared during the 2:00 p.m. session and another seventeen witnesses testified during the 7:00 p.m. session. Filed with this report is the transcript from the hearings. Of the fifty-eight persons that appeared, forty were in favor of extended local service, eleven were opposed, and seven took no specific position. In addition, approximately 175 letters and petitions bearing 1,081 names have been forwarded to the Commission regarding United's proposed expansion of local calling to and from the Konnarock exchange. The charts below summarize the public comments received in this case. A separate chart is provided for public hearings, letters, and petitions. Each chart shows the number, by locality, that supported, opposed, or took no position regarding the proposed extended local service.

<b>Public Hearing</b>				
<b>Locality</b>	<b>Supported</b>	<b>Opposed</b>	<b>No Position</b>	<b>Total</b>
Konnarock	35	2	2	39
Marion	4	6	3	13
Chilhowie	1	0	1	2
Saltville	0	3	1	4
Total	40	11	7	58

<b>Letters</b>				
<b>Locality</b>	<b>Supported</b>	<b>Opposed</b>	<b>No Position</b>	<b>Total</b>
Konnarock	60	9	2	71
Marion	9	66	0	75
Chilhowie	8	16	1	25
Saltville	1	3	0	4
Total	78	94	3	175

<b>Petition Signatures</b>				
<b>Locality</b>	<b>Supported</b>	<b>Opposed</b>	<b>No Position</b>	<b>Total</b>
Konnarock	102	14	0	116
Marion	0	95	0	95
Chilhowie	3	18	0	21

Saltville	2	847	0	849
Total	107	974	0	1,081

## SUMMARY OF THE RECORD

Most of the customers of the Konnarock exchange that appeared at the public hearings, submitted letters, or signed petitions, supported United's proposal to extend Konnarock's area of local service. Much of the opposition from customers of the Marion, Chilhowie, and Saltville exchanges focused on the added monthly charge for local service, and appeared to be driven by confusion as to the amount of the monthly increase.

As noticed, the monthly increase in local service rates for Konnarock exchange customers are as follows:

flat rate single-party residential service, \$2.50;  
flat rate two-party residential service, \$1.97;  
flat rate four-party residential service, \$1.85;  
flat rate single-party business service, \$5.92;  
flat rate two-party business service, \$5.13;  
flat rate four-party business service, \$3.89;  
flat rate key, data, or Centrex key trunk, \$8.88;  
flat rate PBX or Centrex PBX Trunk, \$8.88; and  
customer-owned coin or semi-public coin service, \$8.88.

Customers in the Marion, Chilhowie, and Saltville exchanges were notified by United of the increase in local service rates that would be necessary to extend their local service to include the Konnarock exchange. The table below shows the increase for each of these exchanges.

Class of Service	Marion	Chilhowie	Saltville
<b>Residential Service</b>			
Flat rate single-party	0.27	0.39	0.29
Flat rate two-party	0.22	0.31	0.23
Flat rate four-party	0.20	0.29	0.22
<b>Business Service</b>			
Flat rate single-party	0.64	0.90	0.69
Flat rate two-party	0.55	0.78	0.60
Flat rate four-party	0.42	0.59	0.45
<b>Key Trunk</b>	0.95	1.35	1.04
<b>PBX Trunk</b>	0.95	1.35	1.04
<b>Coin Service</b>	0.95	1.35	1.04

However, because the public notice contained only the increase in monthly rates for the Konnarock exchange, many customers in the Marion, Chilhowie, and Saltville exchanges concluded that if the Commission approved United's extended local service proposal, their rates

would be increased as noticed for Konnarock. Thus, for example, some Marion residential customers erroneously believed that they faced an increase in monthly rates of \$2.50 instead of \$0.27. Several of the letters received from customers in the Marion, Chilhowie, and Saltville exchanges opposed to United's proposal, as well as most of the petitions, explicitly referred to an increase in monthly rates of \$2.50 as the basis for opposition. Indeed, one petition with 836 names of customers from the Saltville exchange read as follows:

We the undersigned, having the local calling digit 496 of Saltville, VA, do hereby petition the State Corporation Commission that we do not wish to be added to the Konnarock, VA exchange. We are not willing to pay the extra \$2.50 increase that will be added to our monthly telephone rate.<sup>1</sup>

In other letters in opposition it was less clear whether they were written based upon a misunderstanding of the change in monthly rates associated with the proposal. For example, in a letter dated June 13, 2000, the Town of Saltville reported that it took the following action based on the notice of public hearing:

During the Saltville Town Council meeting of June 1, 2000, a motion was made by Councilman Pat Arnold, seconded by Councilman Garland Parks and unanimously carried, to oppose this proposal and resulting proposed telephone charge increase.<sup>2</sup>

Though this letter was written subsequent to the public hearing, reference to the notice of public hearing and the date of the council meeting suggest that the "proposed telephone charge increase" was the approximately \$2.50 per month increase for the Konnarock exchange instead of the \$0.29 per month increase for the Saltville exchange.

At the public hearing, the hearing examiner opened each session with an explanation of the rate impact of United's proposal.<sup>3</sup> In addition, a representative of United distributed a table comparing the current rates, additional charges for extended local service, and the proposed new rates, separately, for the Konnarock, Marion, Chilhowie, and Saltville exchanges. A copy of the table distributed by United is attached to this report.

Nonetheless, many of the public witnesses remained skeptical and troubled by the change in rates tied to extended local service. Public witness Pricilla Hall of Marion spoke for many when she described her confusion concerning rates as follows:

First of all, I would like to say I was totally confused about what was in the paper, that was in the Bristol paper. First of all, I

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<sup>1</sup> Petition filed with Document Control on May 30, 2000, Document Control Number 000530332.

<sup>2</sup> Letter filed with Document Control on June 19, 2000, Document Control Number 000630293.

<sup>3</sup> Skirpan, Tr. at 6-8, 77-78.

recall getting a notice that our rate was going . . . up 27 cents, and we were to respond to that some time in October of '99.

Then a few week ago in the Bristol paper it said because . . . the Sugar Grove area had opted out, that they had revised new rates. And I did write . . . a letter to the Smyth County News, not because in the Bristol paper it said that the rates were going to be \$2.50 for residential, and that wasn't right. I came here today and was shocked that I had read something wrong, apparently, or maybe I misunderstood it. And it's time in October, I thought, well, I don't call Konnarock, but for 27 cents, if the people over there, if that helps them out, I can live with that.

So at this point I guess I really don't know which way to go, because, again, 27 cents is not a whole lot for most people, a lot of people, but for some people it is. So, I guess I'm straddling the fence right now.<sup>4</sup>

Even after learning that the increase in monthly rates amounted to about the cost of a postage stamp,<sup>5</sup> some public witnesses continued to oppose the extended local service based on cost. For example, public witness Malissa Crewey testified: "I'm here to say that I can't even afford 27 cents."<sup>6</sup> Many other public witnesses opposed any increase based on a "slippery-slope theory." As public witness Velda Frye put it, "I am opposed to any increase at all for whatever reason because no doubt it won't stop at 27 cents."<sup>7</sup> Likewise, public witness Juanita White explained, "these little extras are just adding up to be too much, and I'm just against it."<sup>8</sup>

Only two of the thirty-nine public witnesses living in the Konnarock exchange opposed extended local service. These customers were residents of Grayson County.<sup>9</sup> Marion, Chilhowie, Saltville, and most of the Konnarock exchanges are located in Smyth County.<sup>10</sup> Indeed, Marion is the county seat. Consequently, Konnarock exchange customers living in Grayson County, who cannot make local calls to their county seat, opposed paying extra for local service to other areas within Smyth County.<sup>11</sup>

Customers likely to call between Konnarock, Marion, Chilhowie, and Saltville supported extended local calling. Public witnesses from the Konnarock exchange complain that they must make long distance calls in order to contact county schools, the sheriff's office, and the local

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<sup>4</sup> Hall, Tr. at 51-52.

<sup>5</sup> Dr. Grable, Tr. at 59.

<sup>6</sup> Crewey, Tr. at 50.

<sup>7</sup> Frye, Tr. at 53.

<sup>8</sup> White, Tr. at 52.

<sup>9</sup> P. Baldwin, Tr. at 17-18; L. Baldwin, Tr. at 18-20.

<sup>10</sup> A portion of the Konnarock exchange stretches into Washington County.

<sup>11</sup> L. Baldwin, Tr. at 20.

hospital.<sup>12</sup> Janice F. Gable, M.D. exemplified public witnesses supporting extended local service based on the needs of the community.

I've been in [medical] practice in Konnarock for 29 years. I have 5,000 active patients, compared to the national average of 2300. My office phone bill is \$500 to \$600 a month. 95 percent of our long distant calls are in state. A third of my patients are in the area in which we're seeking extended service. They call my office, and I call them. I have a staff of seven. Between us, we're on the phone more than 20 hours during our work day. Needless to say I'm in favor of extended service.

My children attended the Smyth County schools for 26 years, all long distance, all the girl friends were long distance, but that's over.

I pay professional fees in Marion. I have phone calls, of course, to businesses in Smyth County that are long distance, many businesses, not just drugstores. All my calls to the hospital which doesn't have an 800 number, all referrals to physicians in Smyth County, [are long distance] because I'm the only physician in the Konnarock exchange.

I'm the Operations Medical Director of the Rescue Squad. The phone calls related to that are all long distance for me, and that's a volunteer position.

I think I'm in the widest position to understand the meaning for the 5,000 people that I serve of extended service, and although there are those who would not use it, . . . the advantages tremendously outweigh the disadvantage to those people.<sup>13</sup>

Not all of the forty public witnesses appearing in support of extended local service claimed to benefit from the proposal. For example, public witnesses Lucy Riffey and Thomas Blevins both live in the Konnarock exchange, but in Washington County.<sup>14</sup> Neither saw themselves benefiting from the proposed extended local service.<sup>15</sup> Nonetheless, both supported the proposal.<sup>16</sup> As Ms. Riffey put it:

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<sup>12</sup> *E.g.*, Miller, Tr. at 14; F. Blevins, Tr. at 21; A. Pennington, Tr. at 70.

<sup>13</sup> Dr. Gable, Tr. at 57-58.

<sup>14</sup> Riffey, Tr. at 30-31; T. Blevins, Tr. at 36.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

And to be honest, this is not going to help me one bit. I don't call Marion, but . . . I do want to support it because of all of the people who do really need it. I'm one of those senior citizens, too, and I'm on a fixed income. But, I still want this to go through for those people that really need it.<sup>17</sup>

## DISCUSSION

Virginia Code § 56-484.2 sets forth the methodology for extending local telephone service areas. Specifically, the statute directs the Commission to estimate the change in the monthly rate for service for extending local service areas upon either: (i) petition of five percent of the subscribers in an established telephone exchange; or (ii) resolution of the governing body of a county for a countywide local service area.<sup>18</sup> If the proposed extended local service area increases rates of the customers in any exchange by more than five percent, those customers must be polled.<sup>19</sup> If a poll is required, the Commission shall order the extension of local service areas if a majority of the subscribers are in favor of the proposed change.<sup>20</sup> If a poll is not required, the Commission shall require notice to customers and, depending on the level of interest, convene a hearing.<sup>21</sup>

This case began with a petition from the customers of the Konnarock exchange for extended local service to the Sugar Grove, Marion, Chilhowie, and Saltville exchanges. Based on the estimated change in rates associated with the proposed extended local service areas, customers in the Konnarock and Sugar Grove exchanges were polled. Konnarock approved the proposal; Sugar Grove rejected the proposal. Consequently, Sugar Grove was dropped from the proposed extended local service area for Konnarock. After recalculating rates for the removal of Sugar Grove, notice was given to the customers of the Konnarock, Marion, Chilhowie, and Saltville exchanges. Based on customer reaction to the proposed extended local service, in its report dated March 13, 2000, Staff made the following recommendation:

This ELS proposal is relatively complicated and perhaps confusing to affected customers because Konnarock was first polled and then had to be notified via direct mail of a change in the original proposed expanded local calling area. In consideration of the requests for hearing, letters in opposition and possible customer confusion, the Commission may want to consider a public hearing on this matter.<sup>22</sup>

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<sup>17</sup> Riffey, Tr. at 30-31.

<sup>18</sup> Va. Code § 56-484.2 A.

<sup>19</sup> *Id.*

<sup>20</sup> Va. Code § 56-484.2 B.

<sup>21</sup> Va. Code § 56-482.2 C.

<sup>22</sup> Public Notice Report of Alan R. Wickham at 3.

In evaluating whether to extend local service areas, the Commission has attempted to strike a balance between (i) the benefits to a community to be gained by extending local service and (ii) the increase in base rates resulting from the rate regrouping.<sup>23</sup> As a practical matter, the Commission has relied heavily on the “scale” of public sentiment as the means of balancing benefits and costs. For example, the Commission consistently approves requests for extended local service where there is little or no opposition to the proposal.<sup>24</sup> On the other hand, the Commission has rejected extended local service to communities opposed to such requests.<sup>25</sup> Accordingly, the public’s reaction is evaluated below, first for the Konnarock exchange and then for the Marion, Chilhowie, and Saltville exchanges.

### **Konnarock Exchange**

Public support for the proposed extended service area for Konnarock is strong within the Konnarock exchange. Thirty-five of thirty-seven public witnesses, who live in the Konnarock exchange and took a position during the public hearings, supported the proposal. Similar support was demonstrated in letters and petitions filed with the Commission. Of sixty-nine letters filed, sixty were in favor of extended local service. Likewise, in petitions filed, 102 of 116 customer signatures supported the proposal. Moreover, those in favor of the proposed extended service area make a compelling case, pointing to the need for local calling to Smyth County schools, healthcare, and other governmental services for most residents of the exchange. These customers understand and appear willing to pay the additional monthly base rate of approximately \$2.50 for extended local service.

For Konnarock customers living outside Smyth County, support for the proposal is not as strong. Some of these customers support the proposed extended local service solely because of the needs they see for other Konnarock customers. Others oppose the proposal because they see

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<sup>23</sup> See *Application of Contel of Virginia, Inc. d/b/a GTE Virginia, To implement community calling plans in various GTE Virginia exchanges within the Richmond and Lynchburg LATAs*, Case No. PUC930035, Final Report of Deborah V. Ellenberg, Hearing Examiner, at 8 (January 10, 1995).

<sup>24</sup> See, e.g., *Application of GTE South Incorporated, To implement extended local service from its Lorton and Lorton Metro exchanges to its Arcola exchange*, Case No. PUC990213, Final Order (April 20, 2000) (Approved application; no comments in opposition); *Application of Roanoke and Botetourt Telephone Company, To implement Extended Local Service from the Troutville exchange to the Buchanan exchange*, Case No. PUC990112, 1999 S.C.C. Ann. Rep. 330 (September 30, 1999) (Approved application; eighteen of twenty-two comments in opposition to the proposal); *Application of Bell Atlantic-Virginia, Inc., To implement extended local service from its Chatham exchange to Sprint/Centel’s Bachelors Hall exchange*, Case No. PUC990045, 1999 S.C.C. Ann. Rep. 296 (August 24, 1999) (Approved application; five of six comments in opposition to the proposal).

<sup>25</sup> *Application of Bell Atlantic-Virginia, Inc., To implement additional Community Choice Plan routes*, Case No. PUC970167, 1998 S.C.C. Ann. Rep. 231 (March 9, 1998) (Approved for exchanges where thirty-three and twenty-three customers filed in opposition and denied for an exchange where a town and seven customers opposed).



little direct benefit, but would like extended local service to their county seat or to other areas. Nonetheless, taken as a whole and based on the evidence presented, I find the support and need within the Konnarock exchange warrants approval of the proposed extended local service absent strong opposition from the other exchanges.

### **Marion, Chilhowie, and Saltville Exchanges**

Customer confusion regarding the rates for the Marion, Chilhowie, and Saltville exchanges raises doubts as to the usefulness of letters and petitions submitted by those customers and makes it difficult to gauge true public sentiment. Put simply, most of the letters and petitions in opposition to the proposed extended local service were opposed to an increase in monthly base rates of approximately \$2.50. In reality, the change in monthly base rates for these customers would be between 27¢ and 39¢. This was explained to everyone at the public hearings. Therefore, I find that the public hearings provide the best measure of public sentiment in the Marion, Chilhowie, and Saltville exchanges for the proposed extended local service.

At the public hearings, nineteen witnesses appeared from the Marion, Chilhowie, and Saltville exchanges. Of these, five spoke in favor of the proposal, nine opposed, and five took no specific or discernable position. Moreover, during the afternoon session, sixteen of the forty-one public witnesses (or almost 40%) appearing were from the Marion, Chilhowie, and Saltville exchanges. By the evening session, the relative number of witnesses from these exchanges declined to just three of seventeen witnesses (or less than 18%). The drop-off in participation between the two sessions suggests a weakening of opposition as the true rate effect became known. More importantly, the testimony of the public witnesses opposed to the proposal appeared to focus on the added charges placed on their telephone bills.<sup>26</sup> These customers used the public hearing as an opportunity to express frustration with the added charges on their bills and, to oppose any further charges, regardless of the amount or purpose. Further, some opposition persisted out of distrust for United and the true or final rate impact of the proposal.<sup>27</sup>

### **FINDINGS AND RECOMMENDATIONS**

Upon consideration of the application and evidence presented herein, I find that United's application to implement extended local service between Konnarock and the Marion, Chilhowie, and Saltville exchanges is in the public interest and should be granted. Accordingly,

I therefore **RECOMMEND** that the Commission enter an order that:

- (1) **ADOPTS** the findings of this Report;
- (2) **GRANTS** United's application; and

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<sup>26</sup> See, e.g., White, Tr. at 52; Frye, Tr. at 53-54; Harris, Tr. at 81.

<sup>27</sup> See, e.g., Sexton, Tr. at 48-49; Harris, Tr. at 81.

(3) **DISMISSES** this case from the Commission's docket of active cases and passes the papers herein to the file for ended causes.

## COMMENTS

The parties are advised that pursuant to Rule 5:16(e) of the Commission's Rules of Practice and Procedure,<sup>28</sup> any comments to this Report must be filed with the Clerk of the Commission in writing, in an original and fifteen copies, within fifteen (15) days from the date hereof. The mailing address to which any such filing must be sent is Document Control Center, P. O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document that copies have been mailed or delivered to all other counsel of record and to any party not represented by counsel.

Respectfully submitted,

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Alexander F. Skirpan, Jr.  
Hearing Examiner

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<sup>28</sup> 5 VAC 5-10-420 F.